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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,440	05/05/2004	Ashok V. Joshi	2000.2.31 MIC-021147	3439
55162	7590	05/27/2009		
CERAMATEC, INC. 2425 SOUTH 900 WEST SALT LAKE CITY, UT 84119			EXAMINER BOUCHELLE, LAURA A	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 05/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/709,440	Applicant(s) JOSHI ET AL.	
	Examiner LAURA A. BOUCHELLE	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 2-5,8-11 and 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,12-16,27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/11/09 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 6, 7, 27-29, 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Schramm et al (US 2003/0146292). Schramm discloses a method and apparatus for evaporating liquids comprising a housing 16 having a fluid reservoir 18, an opening for enabling fluid delivery out of the fluid reservoir, a means 28 for delivering fluid out of the reservoir, a means 26 for retaining the fluid proximate the ambient environment, and a means 24 for imparting motion to the retaining means to move the retaining means with respect to the ambient environment to enhance the evaporation of the fluid (page 2, paragraph 0019-0020). The means for imparting motion is a piezoelectric device 24 (paragraph 0020).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 12-14, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi et al (US 6109539) in view of Logan et al (US 6241219). Joshi discloses a controlled release fluid delivery device 110 comprising a housing 112 having a fluid reservoir for holding a fluid 111, a means for delivering fluid out of the fluid reservoir 114, means for retaining the fluid 116 proximate an ambient environment, and a means for imparting motion to the fluid retaining member (Col. 8, lines 50-62, Col. 9, lines 7-12). The opening 114 in the reservoir is downward facing and the means for retaining fluid is a porous pad. See Fig. 10. The opening inherently includes means for controlling the rate of fluid flow there through. Joshi inherently discloses the method of using the device including the steps of using a fluid delivery mechanism to deliver fluid from a reservoir and retaining the fluid in a retaining member.

6. Claim 1 differs from Joshi in calling for a means for imparting motion to the retaining means. Joshi discloses that the device may be in the hanging position (col. 8, lines 66). Logan teaches a device similar to Joshi in comprising a fluid retaining reservoir 20 and a fluid retaining means 18 (col. 3, lines 21-25). Logan teaches that the device can be suspended from a fan which imparts motion to the retaining means to move the retaining means with respect to the ambient environment to enhance evaporation of the fluid to the ambient environment. Joshi discloses that the device may be hung and Logan teaches that it is known to hang controlled release devices from fans. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to hang the device of Joshi from a fan as taught by Logan to impart motion to the fluid

Art Unit: 3763

retaining means to improve evaporation and circulation of the volatile substance throughout the ambient environment.

7. Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi in view of Logan further in view of Moore (US 5935526). Joshi discloses the device but for the motion element which is taught by Logan as discussed above.

8. Claim 30 further differs from the teachings above in calling for the motion element to rotate the fluid retainer. Moore teaches that a controlled release fluid delivery device may be attached to any portion of the fan including the fan blade to impart rotation to the device and further propel the evaporated fluid into the ambient environment. Therefore, it would have been obvious to one of ordinary art at the time of invention to attach the device to the fan blade as taught by Moore to increase air flow over the retaining means and thereby increase evaporation of the fluid.

9. Claims 12, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schramm in view of Joshi. Claim 12 differs from Schramm in calling for the means for delivering the fluid comprises of an opening in the downward facing direction. Schramm instead discloses a wick that delivers fluid to an upward facing opening and a porous retaining member. Joshi teaches that using a wick to deliver fluid upward is known in the art but providing a downward facing opening is preferred because it provides controlled and constant release of the fluid over an extended period of time (col. 1, lines 38-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Schramm to include a downward facing opening in the reservoir in place of the wick because the

Art Unit: 3763

downward facing opening allows for more controlled and constant delivery of the fluid than a wick does.

Response to Arguments

10. Applicant's arguments with respect to claims 1,6,7,12-16,27-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Laura A Bouchelle
Examiner
Art Unit 3763

Application/Control Number: 10/709,440

Page 6

Art Unit: 3763

/Laura A Bouchelle/

Examiner, Art Unit 3763